

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ANDREW F. DUFFY, JR.,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-09-485-D
)	
SHANE WYATT,)	
)	
Defendants.)	

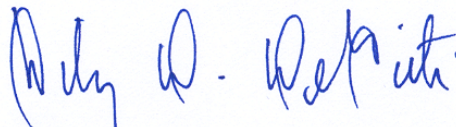
ORDER OF DISMISSAL

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Valerie K. Couch issued July 28, 2009, pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Upon initial review of the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, Judge Couch recommends a dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted, and counting the dismissal as a “strike” under 28 U.S.C. § 1915(g).

Plaintiff, who appears *pro se* and *in forma pauperis*, has neither filed a timely objection to the Report nor requested additional time to object. The Court therefore finds Plaintiff has waived further review. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, upon *de novo* consideration of the issues, the Court finds Judge Couch’s analysis to be correct. Therefore, the Court adopts the Report and Recommendation [Doc. No. 12] in its entirety.

IT IS THEREFORE ORDERED that the action is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The dismissal shall count as a “prior occasion” or strike pursuant to 28 U.S.C. § 1915(g) after Plaintiff has exhausted or waived his right to appeal.

IT IS SO ORDERED this 27th day of August, 2009.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE